

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>5/1/2025</u>
--

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
UNITED STATES OF AMERICA	:	
	:	CONSENT PRELIMINARY ORDER
- v. -	:	OF FORFEITURE AS TO
	:	<u>SPECIFIC PROPERTY</u>
JOSE RIVERA,	:	
	:	24 Cr. 412 (GHW)
Defendant.	:	
-----	X	

WHEREAS, on or about July 1, 2024, JOSE RIVERA (the “Defendant”), and another, was charged in an Indictment, 24 Cr. 412 (GHW) (the “Indictment”), with conspiracy to commit carjacking, in violation of Title 18, United States Code, Section 371 (Count One); carjacking, in violation of Title 18, United States Code, Sections 2119 and 2 (Count Two); firearms use, carrying, and possession, in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i) and (ii), 924(c)(1)(B)(ii), and 2 (Count Three); and possession of a machinegun, in violation of Title 18, United States Code, Sections 922(o)(1) and 2 (Count Four);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One and Two of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 982(a)(5), of any and all property real and personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of the offenses charged in Counts One and Two of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offenses charged in Counts One and Two of the Indictment;

WHEREAS, the Indictment also included a forfeiture allegation as to Counts Three and Four of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 924(d)(1), and Title 28, United States Code, Section 2461(c), of any and all

firearms and ammunition involved in or used in the offenses charged in Counts One through Four of the Indictment, including but not limited to:

- a. Glock 27 .40-caliber pistol equipped with a Glock automatic switch device and a flashlight; and
- b. Glock 17 9-millimeter pistol equipped with an extended magazine and a flashlight;

(a. and b., together, the “Specific Property”);

WHEREAS, on or about April 21, 2025, the Defendant pled guilty to Counts One through Four of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Counts One through Four of the Indictment and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c), all right, title and interest of the Defendant in the Specific Property;

WHEREAS, the Defendant consents to the forfeiture of all his right, title and interest in the Specific Property as firearms and/or ammunition involved in or used in the offenses charged in Counts One through Four of the Indictment; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(g), and Rules 32.2(b)(3), and 32.2(b)(6) of the Federal Rules of Criminal Procedure, the Government is now entitled, pending any assertion of third-party claims, to reduce the Specific Property to its possession and to notify any and all persons who reasonably appear to be a potential claimant of their interest herein;

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Matthew Podolsky, Acting United States Attorney, Assistant United

States Attorneys Frank Balsamello and Marguerite B. Colson, of counsel, and the Defendant and his counsel, Martin S. Bell, Esq., that:

1. As a result of the offenses charged in Counts One through Four of the Indictment, to which the Defendant pled guilty pursuant to a plea agreement with the Government, all of the Defendant's right, title and interest in the Specific Property is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture as to the Specific Property is final as to the Defendant JOSE RIVERA, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. Upon entry of this Consent Preliminary Order of Forfeiture as to Specific Property, the United States Marshals Service (or its designee) is hereby authorized to take possession of the Specific Property and to hold such property in its secure custody and control.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, [www.forfeiture.gov](http://www.forfeiture.gov). This site incorporates the forfeiture notices that have been traditionally published in newspapers. The United States forthwith shall publish the internet ad for at least thirty (30) consecutive days. Any person, other than the Defendant, claiming interest in the Specific Property must file a Petition within sixty (60) days from the first day of publication of the Notice

on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The published notice of forfeiture shall state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Specific Property, (ii) shall be signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title or interest in the Specific Property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the Specific Property, any additional facts supporting the petitioner's claim, and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

6. Pursuant to 32.2 (b)(6)(A) of the Federal Rules of Criminal Procedure, the Government shall send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Specific Property pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed.

8. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

9. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture as to Specific Property, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

10. The signature page of this Consent Preliminary Order of Forfeiture as to Specific Property may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

JAY CLATTON  
MATTHEW PODOLSKY

Acting United States Attorney for the  
Southern District of New York

By: /s Frank J. Balsamello  
FRANK J. BALSAMELLO  
MARGUERITE B. COLSON  
Assistant United States Attorneys  
26 Federal Plaza  
New York, NY 10278  
(212) 637-2325 | -2587

4/30/25  
DATE

JOSE RIVERA

By: José Rivera  
JOSE RIVERA

4/30/25  
DATE

By: [Signature]  
Martin S. Bell, Esq.  
Attorney for Jose Rivera  
425 Lexington Avenue  
New York, NY 10017

4/30/25  
DATE

SO ORDERED:

[Signature]  
HONORABLE GREGORY H. WOODS  
UNITED STATES DISTRICT JUDGE

April 30, 2025  
DATE